IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 2077 of 2007()

CC.377/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD

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PETITIONER: ACCUSED

CHANDRASEKHARAN, AGED 37 YEARS,
S/O. SUNDARA MUDALIAR, PARAKKALAM,
NALLEPPILLY, CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS: COMPLAINANT & STATE

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1. RAJAN, AGED 55 YEARS, S/O. GURUSWAMY,
RAYAPPA STREET, THATHAMANGALAM,
CHITTUR TALUK, PALAKKAD DISTRICT.

2. STATE OF KERALA - REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2077 OF 2007

Dated this the 28th day of June, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. The petitioner had appeared before the learned Magistrate. Consequent to his failure/omission to appear before the learned Magistrate on one date of posting, a warrant of arrest has been issued against the petitioner. According to the petitioner, there was no wilful lapse on his part in appearing before court. His counsel had entered appearance. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge